

of fluid milk products shall include receipts from plants of other persons at all retail and wholesale outlets that are located in a Federal marketing area and operated by the producer-handler, an affiliate, or any person who controls or is controlled by the producer-handler.

[56 FR 5311, Feb. 11, 1991]

**§ 1001.11 Dairy farmer for other markets.**

*Dairy farmer for other markets* means any dairy farmer described in this section. For the purposes of this section, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by the handler or dealer. Receipts from a "dairy farmer for other markets" under paragraphs (a), (b), and (c) of this section shall be considered as receipts from the unregulated plant at which the greatest quantity of his milk was received in the most recent month.

(a) The term includes a dairy farmer with respect to milk that is purchased from him during the month by a dealer who operates a plant but does not operate a pool plant, if the milk is moved to a pool plant directly from the dairy farmer's farm. The term shall not apply to the dairy farmer, however, if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(b) The term includes a dairy farmer with respect to milk that is purchased from him by a handler and moved to a pool plant or that is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d), if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month. The term shall not apply to the dairy farmer, however, if all the nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order or if all the nonpool milk is excluded from producer milk under § 1001.15.

(c) The term includes a dairy farmer with respect to milk that is received from him by a handler at a pool plant or that is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any of the months of January through July, if the handler caused nonpool milk from the same farm to be received during any of the preceding months of August through December at a plant that is not a pool plant under any Federal order in the current month. The term shall not apply to the dairy farmer, however, if all the nonpool milk was a receipt of producer milk under the provisions of another Federal order or represented receipts from own production by a producer-handler under any Federal order, or was excluded from producer milk under § 1001.15.

(d) Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section, the term shall apply to any dairy farmer with respect to milk moved from his farm to a handler's pool plant or purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any month in which milk from that farm was received as base milk under another Federal order.

[41 FR 8357, Feb. 26, 1976, as amended at 43 FR 17460, Apr. 25, 1978]

**§ 1001.12 Producer.**

*Producer* means a dairy farmer who produces milk that is moved, other than in packaged form, from his farm to a pool plant, or to any other plant as diverted milk. However, the term shall not include:

(a) A producer-handler under any Federal order;

(b) A dairy farmer with respect to milk caused to be moved from his farm to a pool plant under this order by a handler under another Federal order if all of the dairy farmer's milk so received is considered as a receipt from a producer under the provisions of the other Federal order;

(c) A dairy farmer for other markets;

(d) A dairy farmer who is a local or state government that has nonproducer status for the month under § 1001.16(c);

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(e) A dairy farmer who is a governmental agency that is operating an exempt distributing plant under § 1001.8(e)(2);

(f) A dairy farmer with respect to salvage product assigned under § 1001.44(a)(7)(ii);

(g) A dairy farmer with respect to milk that is excluded from producer milk under § 1001.15; or

(h) A dairy farmer with respect to milk that a handler causes to be moved from the dairy farmer's farm to a regulated plant under another Federal order if any portion of such dairy farmer's milk so moved is assigned to Class I milk under the provisions of such other order and all of the dairy farmer's milk so moved is considered as producer milk under the other order.

[41 FR 8357, Feb. 26, 1976, as amended at 56 FR 5311, Feb. 11, 1991]

### § 1001.13 Producer milk.

*Producer milk* means milk that the handler has received from producers. The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1001.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

### § 1001.14 Other source milk.

*Other source milk* means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1001.40(b)(1) from any source other

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than producers, handlers described in § 1001.9(d), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1001.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1001.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1001.40(b)(1)) for which the handler fails to establish a disposition.

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### § 1001.15 Diverted milk.

*Diverted milk* means milk, other than that excluded under § 1001.12 from being considered as received from a producer, that meets the conditions set forth in paragraph (a) or (b) of this section and is not excluded from diverted milk under paragraph (c) of this section.

(a) Milk that a handler in its capacity as the operator of a pool plant reports as having been moved from a dairy farmer's farm to the pool plant, but which the handler caused to be moved from the farm to another plant, if the handler specifically reports such movement to the other plant as a movement of diverted milk, and the conditions of paragraph (a) (1) or (2) of this section have been met. Milk that is diverted milk under this paragraph shall be considered to have been received at the pool plant from which it was diverted, but for pricing purposes the location adjustments for the zone location specified in § 1001.53 shall be used.

(1) During any 2 months subsequent to July of the preceding calendar year, or during the current month, on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during the month, all of the milk that the handler caused to be moved from that farm was physically received as producer milk at the handler's pool plant or at another of the handler's pool plants that is no longer operated as a plant.